

REMARKS

The Examiner has required restriction under 35 U.S.C. § 121 of the application into one of two allegedly distinct inventions. Applicants hereby elect to prosecute the claims encompassed by Group I, claims 1-38, drawn to a method of altering a T cell mediated pathology by administering a chimeric protein, classified in Class 424, subclass 184.1.

The Examiner has alleged that the application contains claims directed to patentably distinct species of the claimed invention in the following categories: (A) chimeric proteins, (B) T cell mediated pathologies, and (C) a cytokine or chemokine.

Applicants respectfully traverse the Examiner's requirement for the election of species to be examined. A method of treatment wherein the V_{α} and V_{β} regions from a patient's idiotype (Id) protein is linked to a portion of a constant region, expressed in vitro, and then used as per the methods set forth in instant invention does not depend on differences that require an election of species of the chimeric proteins other than as described in the specification, or whether a cytokine or chemokine is used to stimulate the immune response, or which particular T cell mediated pathology is to be treated.

Chimeric Proteins

The Examiner has required election under 35 U.S.C. § 121 to a single species of chimeric protein for prosecution on the merits.

Applicants respectfully traverse the Examiner's requirement for election of a species to be examined. A method of treatment wherein the variable region from a patient's Id protein is linked to a portion of a constant region does not depend on differences in the resultant chimeric proteins other than as set forth in the specification. Nevertheless, to facilitate the prosecution the claims of Group I of instant application, Applicants will elect a single species for further prosecution.

To facilitate the prosecution the claims of Group I of instant application, Applicants elect chimeric proteins wherein the V_{β} region used for a chimeric protein comprises an entire V_{β} region as well as a portion of a C_{β} that comprises the first nine amino acids from a TCR β chain

constant region (C_β) linked to a human IgG $_{\gamma 1}$ constant region; and wherein the V_α region used for a chimeric protein comprises an entire V_α region as well as the first nine amino acids from a TCR α chain constant region (C_α) linked to a human κ chain constant region.

Cytokine or Chemokine

The Examiner has alleged that the claimed invention of Groups I and II contains patentably distinct species of the claimed invention wherein the composition comprises a cytokine or a chemokine. The Examiner has required election under 35 U.S.C. § 121 to a single species for prosecution on the merits.

Applicants respectfully traverse the Examiner's requirement for election of a species to be examined. The means used to stimulate the immune response of the patient does not create patentably distinct inventions where the present invention is a method of treatment wherein the variable region from a patient's Id protein is linked to a portion of a constant region and then used to treat according to the methods of the instant invention.

Nevertheless, to facilitate the prosecution the claims of Group I of instant application, Applicants elect the method wherein the composition further comprises a cytokine.

T Cell Pathology

The Examiner has alleged that the claimed invention contains patentably distinct species wherein the T cell mediated pathology is, *inter alia*, one of the T cell mediated pathologies set forth in claims 37 or 38, *i.e.*, T cell lymphoma, multiple sclerosis, systemic lupus erythematosus, diabetes, inflammatory bowel disease, myasthenia gravis, rheumatoid arthritis, and thyroiditis. The Examiner has required election under 35 U.S.C. § 121 to a single species for prosecution on the merits.

Applicants respectfully traverse the Examiner's requirement for election of a species to be examined. A method of treatment wherein the variable region from a patient's Id protein is linked to a portion of a constant region and then used to alter the response to a T cell pathology does not depend on the identity of the T cell pathology. Patients suffering from any of the above

conditions or others could be treated by the methods of the instant invention with only minor adjustments within the ability of one skilled in the art.

Nevertheless, to facilitate the prosecution the claims of Group I of instant application, Applicants elect a T cell lymphoma for further prosecution.


CONCLUSION

Applicants again reserve the right to pursue any canceled subject matter in this or any other appropriate patent application.

It is believed that all claims are now in condition for allowance. Notification to that effect is respectfully requested. If it is believed that prosecution may be furthered thereby, the Examiner is invited to contact Applicant's undersigned representative to discuss the same. If, however, any fee should become due or credit become payable during the pendency of this application, the Patent Office is authorized to charge or credit the same to Deposit Account 502212, referencing Docket No. 027579.0302611.

Respectfully Submitted,

Date: August 22, 2003



Jeffrey W. Guise, Ph.D.
Reg. No. 34,613

Pillsbury Winthrop LLP
11682 El Camino Real, Suite 200
San Diego, CA 92101
Phone: 619.234.5000
Fax: 858.847.4382